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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,234	06/26/2001	Simon Hastings Bittleston	14.0088	6054

7590

07/28/2003

John H. Bouchard
GeoQuest
Suite 1700
5599 San Felipe
Houston, TX 77056-2722

EXAMINER

TAYLOR, VICTOR J

ART UNIT

PAPER NUMBER

2863

DATE MAILED: 07/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/893,234

Applicant(s)

BITTLESTON, SIMON HASTINGS

Examiner

Victor J. Taylor

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) 2-13 and 32-51 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 14-31 and 52-61 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: *Office Action*.

DETAILED ACTION

Drawings

1. The corrected or substitute drawings were received on 26 June 2001. The drafts person approves these drawings; see attached USPTO form 948, paper 16

Oath/Declaration

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application-by-application number and filing date is required. See MPEP §§ 602.01 and 602.02. The oath or declaration is defective because:

I. The reference on page 1 in the declaration to the priority document of application GB 9,626,442.9 with the filling date of 20 December 1997 is incorrect. The correct filling date is 20 December 1996. The issued patent number for application GB 9,626,442.9 is GB 9,626,442 and was issued on 05 February 1997. This issued patent number for the application GB 9,626,442.9 and the date of issue for this patent is not found in the declaration and copies of either publication were not provided for examination and date verification.

II. The applicant has filed priority under 25 USC section 119 and has not provided the certified copy of this application GB 9,626,442.9 filed 20 December 1996 or the certified copy of Patent GB 9,626,442 on 05 February 1997 as required by 35 USC 119.

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III. A search of the prior application US 09/284,030 filed 04/06/1999 fails to disclose these documents.

IV. Corrections are required to the declaration and the copies of these documents must be submitted as required under 35 USC 119 in order to determine the priority under 35 USC 119.

Priority

3. This application filed under former 37 CFR 1.60 lacks the necessary reference to the prior application. A statement reading, "This is a Continuation of Application No. 09/284,030, filed 04/06/1999." should be entered following the title of the invention or as the first sentence of the specification. Also, the current status of all nonprovisional parent applications referenced should be included.

4. It is noted that this application appears to claim subject matter disclosed in prior Application No. 09/284,030, filed 04/06/1999. A reference to the prior application must be inserted as the first sentence of the specification of this application or in an application data sheet (37 CFR 1.76), if applicant intends to rely on the filing date of the prior application under 35 U.S.C. 119(e) or 120. See 37 CFR 1.78(a). For benefit claims under 35 U.S.C. 120, the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of all nonprovisional applications. Also, the current status of all nonprovisional parent applications referenced should be included.

If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference to the prior application must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78 (a) (2) (ii), and (a) (5) (ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A priority claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed claim for priority under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question

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whether the delay was unintentional. The petition should be addressed to: Mail Stop
Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Specification

5. The disclosure is objected to because of the following informalities: The disclosure has the improper date for the claimed 35 USC 119 priority, and the copy of the priority document was not submitted with the original application and the copy of the priority document is missing from the application.

Appropriate correction is required.

Response to Arguments

6. Applicant's arguments see the petition in paper 14, filed 23 April 2003, with respect to the abandonment have been fully considered and are persuasive. The abandonment of 09 December of 2002 has been withdrawn and the decision granted in favor of the Petition on 25 June 2003 in paper 15. The examination of the instant application has been reopened.

7. Applicant's arguments with the amendments to the claims, see the response to the final office action in paper 7 filed 05 April 2002, and in combination the RCE and the response to the restriction of record with the canceling of claims 32-41, 42-50 and 51 and found in paper 12 that was filed 23 December 2002 moots the restriction, and thereby elects by default the group I of the restriction. In addition, the arguments of record with respect to the control circuit for adjusting each of the wings on the bird

independently to achieve the calculated bird roll angle and the wing angle positions, and with the argument for the sensors including the inclinometer with the amendments to the claims and the limitation in the claims for "two opposed control surfaces projecting outwardly from the streamer cable body, with each control surface being rotate-able about an axis which extends transversely of the streamer cable" have been fully considered and are persuasive. The 102 (b) rejections in paper 3 have been withdrawn.

Claims

8. The applicant of record has cancelled claims 2-13, and 32-51 in paper 3 and in paper 12. The remaining claims comprise 1, 14-31 and 52-61 and these claims remain for examination.

Allowable Subject Matter

9. Claims 1, 14-31, and 32-51 are allowed.

10. The following is an examiner's statement of reasons for allowance:

The arguments and amendments of record in paper 3 and in paper 7 on 5 April 2002 of record and concerning claim 1 and claim 32, combined with the canceling of claims 2-13, and 32-51 in paper 12, and presented by the applicant with the arguments of record with respect to the control circuit for adjusting each of the wings on the bird independently to achieve the calculated bird roll angle and the wing angle positions, and the argument for the sensors including the inclinometer with the amendments to the claims and the limitation in the claims for "two opposed control surfaces projecting outwardly from the body, with each control surface being rotate-able about an axis

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which extends transversely of the streamer cable" have been fully considered and are persuasive and convinces the examiner that the claimed limitations are allowable over the cited art of record.

It is these arguments of record in paper 7, and these limitations of record expressed in each of these claims and not found, taught, or suggested in the prior art of record, that makes these claims allowable over the prior art.

Claims 14-31, and 33-51 which are dependent on the allowed independent claims 1 and 32, are allowed at least for the reasons cited above.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor J. Taylor whose telephone number is 703-305-4470. The examiner can normally be reached on 8:00 to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Barlow can be reached on 703-308-3126. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-4509 for regular communications and 703-308-5841 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-3431.

Victor J. Taylor

Examiner

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Victor J. Taylor
July 25, 2003

VICTOR J. TAYLOR
PATENT EXAMINER